

MICHIGAN ELECTION LAW (EXCERPT)

Act 116 of 1954

CHAPTER XXX

THE COUNTY CANVASS

168.821 Meeting of board of county canvassers; place; time.

Sec. 821. (1) The board of county canvassers shall meet at the office of the county clerk at 1 p.m. on the day after the day of a general election, August primary, or presidential primary election in the county. Except as provided in subsection (2), for other elections the board shall meet within 5 days following the election.

(2) If, at an election held on the May regular election date, a ballot question appears on the ballot concerning authorized millage that is subject to a millage reduction as provided in section 34d of the general property tax act, 1893 PA 206, MCL 211.34d, the board of county canvassers shall meet to canvass and certify the results of the vote on that proposition after May 31 and before June 15 following the election.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1969, Act 138, Imd. Eff. July 31, 1969;—Am. 1988, Act 275, Eff. Sept. 1, 1988;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

Popular name: Election Code

168.822 Board of county canvassers; canvass of returns, conclusion; failure to certify election results.

Sec. 822. (1) The board of county canvassers shall then proceed without delay to canvass the returns of votes cast for all candidates for offices voted for and all questions voted on at the election, according to the precinct returns filed with the probate judge or presiding probate judge by the several city and township clerks, or in case of local elections according to the precinct returns filed with the county clerk, and shall conclude the canvass at the earliest possible time and in every case within 14 days.

(2) If the board of county canvassers fails to certify the results of any election for any officer or proposition within the 14 days as provided, the board of county canvassers shall immediately deliver to the secretary of the board of state canvassers all records and other information pertaining to the election. The board of state canvassers shall meet immediately and make the necessary determinations and certify the results within the 10 days immediately following the receipt of the records from the board of county canvassers. The cost of the canvass shall be borne by the county involved.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

Compiler's note: Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

Popular name: Election Code

168.823 Board of county canvassers; power to summon and open ballot boxes; correction of errors; summoning of election inspectors; designation of staff to count ballots and make corrections.

Sec. 823. (1) If it is found, upon the convening of the board of county canvassers, that the returns from any of the boards of election inspectors of the several election precincts are missing, incomplete, or incorrect, or for any other reason it is found necessary, then the board of county canvassers shall have power to adjourn from day to day until the returns shall have been procured or corrected.

(2) The board of county canvassers is empowered to summon the persons having the boxes containing the ballots cast at the election and the keys and seals of the boxes, or having the returns or the poll lists or tally sheets used and made at the elections, to bring the boxes, keys, seals, returns, poll lists, and tally sheets before the board of county canvassers, and the board of county canvassers is authorized to open the boxes and take any books or papers bearing upon the count and return of the election inspectors of the election precincts, but the board of county canvassers shall not remove or mark the ballots.

(3) The board of county canvassers shall correct obvious mathematical errors in the tallies and returns. The board of county canvassers may, if necessary for a proper determination, summon the election inspectors before them, and require them to count any ballots that the election inspectors failed to count, to make correct returns in case, in the judgment of the board of county canvassers after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete, and the board of county canvassers shall canvass the votes from the corrected returns. In the alternative to summoning the election inspectors before them, the board of county canvassers may designate staff members from the county clerk's office to count any ballots that the election inspectors failed to count, to make correct returns in case, in the judgment of the

board of county canvassers after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete, and the board of county canvassers shall canvass the votes from the corrected returns. When the examination of the papers is completed, or the ballots have been counted, they shall be returned to the ballot boxes or delivered to the persons entitled by law to their custody, and the boxes shall be locked and sealed and delivered to the legal custodians.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

Compiler's note: Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

Popular name: Election Code

168.824 Board of county canvassers; statement of votes; preparation; seal.

Sec. 824. (1) Upon completion of the canvass under section 822, the board of county canvassers shall prepare a statement in detail of the number of votes cast for each office, the names of the persons for whom such votes were given, and the number of votes given to each person, as shown by the returns of the boards of inspectors of election of the various voting precincts of the county. The board of county canvassers shall also prepare a statement in detail of the number of votes cast on any proposed constitutional amendment or other ballot question submitted to the electors at the election and the number of votes cast in favor of and the number of votes cast against such proposed amendment or other ballot question, as shown by such returns.

(2) Immediately upon completion of the canvass under section 822, the board of county canvassers shall seal the statement of returns or combined tally and statement and poll list, if applicable, received from the board of election inspectors in an envelope to prevent tampering with those items.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

Popular name: Election Code

168.825 Statements of votes; contents, certification, filing.

Sec. 825. In said statements, the whole number of votes given for each office, the names of the candidates and the number of votes given to each, the whole number of votes given on any proposed constitutional amendment or other proposition submitted to the electors at such election, and the number of votes given for and the number of votes given against such proposed amendment or other proposition shall be written out in words at length, and the number of votes shall in each case be also stated in figures. Each such statement shall be certified to by the said board of county canvassers, under their hands and the seal of the circuit court of the county, and shall be attested by the clerk of said board. Thus certified and attested, each such statement shall be filed with the county clerk and kept by him in his office.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.826 Determination and declaration of election results; preparation, delivery, and filing of certificate of determination; publication of statement of votes; certified certificate of election.

Sec. 826. (1) The board of county canvassers shall determine and declare the result of the election for county and local officers, and for all county and local ballot questions. If a state senatorial or representative district is located solely within 1 county, the board of county canvassers shall determine and declare the result of the election for that office. Upon making the determination under this subsection, the board of county canvassers shall prepare a certificate of determination and deliver the properly certified certificate of determination to the county clerk. If the determination relates to a state senatorial or representative district located solely within 1 county, the board of county canvassers shall also deliver the properly certified certificate of determination to the board of state canvassers.

(2) Upon receipt of a properly certified certificate of determination from a board of county canvassers under subsection (1), the county clerk shall file the certificate in his or her office. The county clerk may have a statement of the total county or district votes cast for the various candidates and the total vote cast for and against the various ballot questions at the election to be published in at least 1 newspaper printed or circulated in that county. The county clerk shall immediately execute and deliver to the persons declared elected, a properly certified certificate of election.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 1985, Act 162, Eff. Mar. 31, 1986;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1999, Act 217, Eff. Mar. 10, 2000;—Am. 2003, Act 119, Imd. Eff. July 29, 2003;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

Compiler's note: Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

Popular name: Election Code

168.827 Certificate of determination to secretary of state.

Sec. 827. The county clerk of each county which alone constitutes 1 or more senatorial or representative districts shall, upon suitable blank forms furnished by the secretary of state, transmit by mail, without delay, to the secretary of state a copy of such certificate of determination certified by said county clerk under his hand and seal of office. The said county clerk shall at the same time report to the secretary of state the postoffice address of each person elected in said county to any county office or to the office of state senator or representative in the legislature.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.828 Statements of votes; certified copy to secretary of state.

Sec. 828. The clerk of the board of county canvassers forthwith, and in no case later than 24 hours after the completion of the canvass, upon forms provided by the secretary of state, shall deliver in person or send to the secretary of state, by registered or certified mail with return receipt demanded, a certified copy of each of the statements prepared by the board as required by section 824 of this act, so far as such statements shall relate to the vote for any state office, electors of president and vice-president of the United States, United States senator, representative in congress, circuit judges, state senators and representatives in the state legislature, and any proposed amendment to the constitution or other question or proposition submitted at such election to the electors of the state at large, together with a certificate of authenticity signed by himself and the chairman of the board of canvassers.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1958, Act 192, Eff. Sept. 13, 1958.

Popular name: Election Code

168.829 County provisional ballot report; county affidavit report.

Sec. 829. (1) The board of county canvassers shall include the results of the tabulated provisional ballots in the canvass of the election following procedures prescribed by the secretary of state designed to maintain the secrecy of the ballot.

(2) Within 14 days after a primary or election, the county clerk shall transmit a county provisional ballot report to the secretary of state. The county provisional ballot report shall be in a manner prescribed by the secretary of state. After the secretary of state receives a county provisional ballot report, the county provisional ballot report shall be immediately available for public inspection.

(3) Within 14 days after an election, the county clerk shall transmit a county affidavit report to the secretary of state. The county affidavit report shall include the number of affidavits signed by voters under section 523(2). The county affidavit report shall be transmitted in a form prescribed by the secretary of state. After the secretary of state receives the county affidavit report from the county clerk, the county affidavit report shall immediately be available for public inspection.

History: Add. 2004, Act 92, Imd. Eff. Apr. 26, 2004;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

Compiler's note: Former MCL 168.829, which pertained to meetings for canvass of special elections, was repealed by Act 222 of 1977, Imd. Eff. Nov. 23, 1977.

Popular name: Election Code

168.830 County canvassers and county clerk; compensation.

Sec. 830. Each county canvasser and county clerk shall receive such reasonable compensation for services performed pursuant to the provisions of this act as shall be allowed by the board of supervisors or county auditors, which compensation shall be paid out of the treasury of the county.

History: 1954, Act 116, Eff. June 1, 1955.

Popular name: Election Code

168.831 Defect or mechanical malfunction in election equipment or material; inability of elector to cast valid vote; petition for special election.

Sec. 831. If an elector cannot cast a valid vote at an election for the candidate of that elector's choice or for or against a ballot question submitted to the voters because of a defect in or a mechanical malfunction of a voting machine, voting device, ballot, or other election equipment or material, a special election may be petitioned for and held as provided for in sections 832 to 839.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

Popular name: Election Code

168.832 Defect or mechanical malfunction described in MCL 168.831; aggrieved candidate or elector; filing petition for special election.

Sec. 832. A candidate aggrieved by a defect or mechanical malfunction as described in section 831 or a registered elector, whose name appears in a poll book at the election for a ballot question aggrieved by a defect or mechanical malfunction as described in section 831, may petition for a special election. The petition shall be filed with the secretary or clerk of the board of canvassers that canvasses the election no later than 10 days after the date of the election.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

Popular name: Election Code

168.833 Petition for special election; requirements.

Sec. 833. A petition filed under section 832 shall meet all of the following requirements:

- (a) Be typed or printed.
- (b) Allege the facts that made it impossible to cast a vote for the petitioning candidate or for or against the ballot question.
- (c) Identify the precinct and city or township, and, if applicable, the number of the voting machine or device.
- (d) Be signed and certified by the candidate or elector.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

Popular name: Election Code

168.834 Repealed. 1990, Act 95, Imd. Eff. June 6, 1990.

Compiler's note: The repealed section pertained to service of petition for special election.

Popular name: Election Code

168.835 Petition for special election; qualification; meeting of board of canvassers; notice of time and place.

Sec. 835. The secretary or clerk of the board of canvassers shall determine if a petition meets the requirements of section 833. If a petition is so qualified, the secretary or clerk shall call a meeting of the board of canvassers no later than 5 days after receipt of the petition. The secretary or clerk shall notify the following persons by first class mail or phone of the time and place of the meeting:

- (a) The appropriate city or township clerk.
- (b) If the election was a general election or special election, each candidate whose name appears on the ballot for the same office.
- (c) If the election was a primary election, each candidate whose name appears on the ballot for the same office under the political party of the candidate.
- (d) The filer or sponsor of the ballot question, if known, any ballot question committee filed under Act No. 388 of the Public Acts of 1976, being sections 169.201 to 169.282 of the Michigan Compiled Laws, supporting or opposing the ballot question, and the registered elector who filed the petition under section 832.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

Popular name: Election Code

168.836 Ordering special election in precinct affected by defect or mechanical malfunction; conditions; effect of votes in excess of electors.

Sec. 836. (1) The board of canvassers shall order a special election for the office of the petitioning candidate or the ballot question only in each precinct affected by a defect or mechanical malfunction as described in section 831 if all of the following are true:

- (a) An elector could not cast a valid vote in the precinct for the petitioning candidate or for or against the ballot question because of the defect or mechanical malfunction.
- (b) Based on the available canvass, the number of electors who could not cast valid votes for the office or for or against the ballot question in an election because of the defect or mechanical malfunction is greater than the number of votes separating the candidates getting the most and the second most number of votes or is greater than the number of votes separating total “yes” votes and the total “no” votes.

(2) If the number of votes for an office or for or against a ballot question recorded on a voting machine exceeds the number of electors that voted on the machine, then for the purposes of subsection (1), the difference shall be regarded as the number of electors who, because of a defect or mechanical malfunction as described in section 831, could not cast valid votes for the office or for or against the ballot question.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

Popular name: Election Code

168.837 Special election to be conducted by mail; sending ballot to each elector; time limitation; request from board of canvassers; time for returning ballot.

Sec. 837. (1) A special election ordered under section 836 shall be conducted by mail. Not later than 5 days after the order, the city or township clerk shall send a ballot to each elector whose name was entered in the poll book as having voted in that precinct at the election.

(2) The ballot shall include a request from the board of canvassers that the elector cast a ballot as the elector did or attempted to cast at the election.

(3) Electors shall have 5 days after the date of mailing to return the ballot to the city or township clerk either by mail or in person.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983.

Popular name: Election Code

168.838 Counting and reporting ballots; manner; count to include number of votes cast by absent voters.

Sec. 838. Ballots returned under section 837 shall be counted and reported in the same manner provided in this act for the counting and reporting of absent voter ballots. The count shall include the number of votes cast by absent voters as shown by the original canvass for that precinct.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983.

Popular name: Election Code

168.839 Candidate not required to petition for recount; special election not subject to recount.

Sec. 839. (1) A candidate who petitions for a special election under section 832 is not required to petition for a recount.

(2) A special election held under sections 832 to 838 is not subject to recount.

History: Add. 1982, Act 505, Eff. Mar. 30, 1983.

Popular name: Election Code